

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

UNITED STATES OF AMERICA,

Plaintiff,

v.

LIONEL NELSON WILLIAMS,

Defendant.

CRIMINAL CASE NO.  
2:17cr00001

TRANSCRIPT OF PROCEEDINGS  
TRANSCRIBED FROM COURT-PROVIDED AUDIO  
**(Initial Appearance and Detention Hearing)**

Norfolk, Virginia

January 4, 2017

BEFORE: THE HONORABLE LAWRENCE R. LEONARD,  
United States Magistrate Judge

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE

By: Joseph E. DePadilla  
Assistant United States Attorney  
Counsel for the United States

FEDERAL PUBLIC DEFENDER'S OFFICE

By: Keith L. Kimball  
Assistant Federal Public Defender  
Counsel for the Defendant

1 (The hearing commenced at 2:38 p.m.)

2 THE CLERK: United States of America v. Lionel  
3 Nelson Williams, Case 2:17cr1.

4 Are counsel ready to proceed?

5 MR. DEPADILLA: The United States is ready.

6 Good afternoon, Your Honor.

7 THE COURT: Good afternoon, Mr. DePadilla.

8 MR. KIMBALL: Judge, good afternoon. The defense is  
9 ready.

10 THE COURT: All right. Good afternoon, Mr. Kimball.

11 There's a couple of housekeeping matters I want to  
12 attend to first. We're here initially for a preliminary  
13 hearing and a detention hearing in this matter. The  
14 defendant had his initial appearance a couple of weeks ago,  
15 and the preliminary and detention hearing, specifically the  
16 detention hearing, was continued until today.

17 Mr. Kimball, I assume -- because the request to  
18 continue the hearing was not made in open court, I assume  
19 that's defendant's motion in order to give defendant  
20 sufficient time to prepare for these hearings. Is that  
21 correct?

22 MR. KIMBALL: That is correct, Judge.

23 THE COURT: All right. Well, ordinarily, those  
24 requests outside of the five-day period should be made before  
25 the Court so that the Court can determine that there is just

1 cause to continue the hearing, but I'll go ahead and make  
2 that finding.

3 The second matter is that, as I said, it was  
4 scheduled for a preliminary hearing and a detention hearing,  
5 but I believe the Grand Jury has returned an indictment this  
6 morning and that the indictment obviates the need for the  
7 preliminary hearing.

8 Mr. Kimball, have you been provided a copy of the  
9 indictment?

10 MR. KIMBALL: I have.

11 THE COURT: All right. Then before we proceed to  
12 the detention hearing aspect of today's proceedings, I do  
13 believe it's necessary to go through an initial appearance on  
14 the indictment.

15 So let me ask you, Mr. Williams, are you Lionel  
16 Nelson Williams?

17 THE DEFENDANT: Yes, sir, I am.

18 THE COURT: All right. Mr. Williams, this part of  
19 the proceeding is called an initial appearance, and the  
20 purpose of this proceeding is for the Court to advise you of  
21 charges that have been brought against you and of certain  
22 rights you have in connection with those charges.

23 You've been charged by an indictment from the  
24 Norfolk Grand Jury with one count of attempt to provide  
25 material support or resources to a designated foreign

1 terrorist organization. In connection with those charges,  
2 you have the right to an attorney and to have the Court  
3 appoint an attorney for you. If you cannot afford one, you  
4 have previously been appointed representation by the Federal  
5 Public Defender, and so that representation will continue.

6 In addition, you are advised you are not required to  
7 make any statement, but you need to know that any statement  
8 you do make can be used against you. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Mr. Kimball has already  
11 advised that he has received a copy of the indictment, so  
12 with the initial appearance then being held, Mr. Kimball, do  
13 you wish to proceed and go forward on the detention hearing?

14 MR. KIMBALL: We do, Your Honor.

15 THE COURT: All right. Now, correct me if I'm  
16 wrong, please, but it's the Court's understanding that this  
17 is a presumption case, given the charge under 2339B.

18 MR. KIMBALL: Judge, we would agree.

19 THE COURT: All right. Then the way I like to  
20 handle presumption cases, I'll hear from the defendant first,  
21 any factual proffer you wish to make, including whether you  
22 wish to call any witnesses to rebut the presumption of  
23 detention, and then once you're done, then I'll hear from the  
24 government their factual proffer, and then we'll have  
25 argument. All right?

1 MR. KIMBALL: That's fine, Judge.

2 Your Honor, the Court has been provided and, I'm  
3 sure, has read the Pretrial Services report, and certainly we  
4 would rely on the information, the factual information, about

5 Mr. Williams in that report to rebut the presumption.  
6 But, in addition to that, Your Honor, I would proffer to the  
7 Court that in the Pretrial Services report it notes my  
8 client's grandmother as a suitable third-party custodian. My  
9 client's grandmother is here, Your Honor, Ms. Courtney Jones.  
10 She's right here. She's raising her hand.

11 THE COURT: All right.

12 MR. KIMBALL: I would proffer to the Court, Your  
13 Honor, that I know that Mr. Armitage has spoken with her  
14 about the obligations of being a third-party custodian. I,  
15 myself, and other members of my team have also discussed that  
16 with her. She's willing to serve as a third-party custodian.  
17 She's also willing to sign off on any bond that may be set.

18 In addition, Your Honor, if the Court would like a  
19 little bit more assurance as far as a third-party custodian  
20 is concerned, Your Honor, we would also submit to the Court  
21 that my client's uncle, Mr. Doran Jones, who is also here  
22 raising his right hand, has voiced his willingness to serve  
23 as a third-party custodian.

24 So basic information about Mr. Jones, Your Honor:  
25 He is 57 (sic) years of age, he currently works at the

1 Norfolk Naval Shipyard, he has a security clearance related  
2 to his employment, he has absolutely no criminal record, and  
3 he lives in Suffolk, really in a house that's on the same  
4 property as my client's grandmother and my client's  
5 residence. It's the same property, and I also proffer to the  
6 Court that their property, Your Honor, is in a very rural  
7 part of Suffolk.

8 And I would also proffer, Your Honor, really  
9 pointing out various folks that are here in support of  
10 Mr. Williams.

11 We have two family friends, one Morris Evans, who is  
12 here, Your Honor. He has been a long-time family friend.  
13 He's known Lionel for at least the last 14 to 15 years.  
14 Mr. Victor Worrell, also a family friend, Your Honor. He has  
15 known Mr. Williams since Mr. Williams' mother passed away  
16 about eight years ago.

17 Clinton Evans is here from Northern Virginia, Your  
18 Honor. He is a cousin of my client.

19 And there are three other men who are here, Judge,  
20 who are friends of Mr. Williams from the Old Dominion  
21 University Mosque; Ahman Mohammed, Deen Tahadi, and Keith  
22 Green. And I believe all three of those gentlemen are in the  
23 back row, Your Honor. So they're here really to show their  
24 support of Mr. Williams, really to show the Court that they  
25 believe he would abide by any conditions of release that this

1 Court could set.

2 So that being the proffer, Your Honor, obviously I  
3 do have argument at the proper time.

4 THE COURT: All right. Thank you, Mr. Kimball.

5 All right, Mr. DePadilla.

6 MR. DEPADILLA: Yes, Your Honor. Turning to the  
7 strength of the evidence in this case, the defendant put on  
8 Facebook that he stands with ISIS. Which one of the terms  
9 the State Department deemed is called Dalwah, D-A-L-W-A-H,  
10 so, "I stand with Dalwah" or ISIS. The defendant gave a  
11 Mirandized confession to the FBI that he stands with ISIS and  
12 that he hopes they are successful. He also stated publicly  
13 that -- he posted, "I can't wait for the day that the black  
14 flag of Islam exists all over Maryland, the District of  
15 Columbia, Virginia, and Chicago."

16 The defendant met with an undercover who presented  
17 himself as a financier for ISIS. The financier asked him for  
18 a donation to the cause. The financier was very careful to  
19 qualify that donation. He said, "Your money is going to go  
20 for the lions of Mosul," which in the terminology of ISIS are  
21 the people that are fighting overseas for ISIS. So the  
22 undercover clarified, "If you give money, it is going to be  
23 for this."

24 The defendant was given time to think about it. He  
25 was provided with an electronic means, whether or not he

1 wanted to make the donation. At that point he reconnected  
2 with them, made the donation. The FBI followed up with him  
3 again and sent him a digital picture of a rocket launcher and  
4 other military materials and said, "This is where your money  
5 went." He texted back, "Praise God. God is great." And  
6 then he put a smily face after it, one of those emoticons.  
7 And he said, "I'm going to delete this, and I'll hit you back  
8 in a minute."

9 The defendant was asked in his Mirandized interview,  
10 "Did you meet with someone?" The defendant denied he met  
11 with anyone, and then when he was confronted with evidence  
12 from the meet he said he couldn't comment on that.

13 The defendant donated to the cause a second time.  
14 He was told, through the undercover, that the undercover was  
15 overseas in the fight and they needed money for ammunition,  
16 and the defendant sent them a wire transmission to cover  
17 ammunition.

18 Your Honor, I would offer in Exhibit 1. I've shown  
19 it to the defense. This is surveillance footage on the  
20 Wal-Mart where he makes the monetary donation.

21 Finally, Your Honor, the defendant was contacted one  
22 final time as this case was coming to its conclusion, and  
23 that will make more sense when I explain the characteristics  
24 of the defendant. But he was asked one final time, "Will you  
25 give more money to the cause?" He stated something to the



1 effect of, "Yes. I want to empty money out of my pockets  
2 before I go, before I go, God willing." And he said his plan  
3 was to die without any money in his pockets. That's coming,  
4 Your Honor, in December 2016, so just a few weeks ago, when  
5 the arrest was effectuated.

6 So now turning to these characteristics, he has no  
7 job. While he does have a residence with his grandmother,  
8 and the uncle does live there as well, I'll address that at  
9 the end.

10 He has a heavy electronic presence, communicating  
11 about ISIS with people all over. This is what he does. He  
12 regularly has videos along those lines of ISIS and the  
13 beheadings and the things like that. Mr. Williams told the  
14 FBI he thinks the beheadings are the same as the electric  
15 chair in America and that the killings are justified; it's  
16 really just an eye-for-an-eye, it's war.

17 His characteristics include that he told the FBI  
18 that he doesn't like the concept of hitting soft targets but  
19 he understands the tactic. And, so, then he was asked to  
20 define, what is a soft target, and he said that was the  
21 civilian population. So then he said that hard targets are  
22 soldiers, law enforcement, or U.S. Government installations,  
23 and he really has no problem with those.

24 The defendant was asked straight out did he give  
25 money to support terrorism. He said, "No," and then when he

1 was confronted with the financial transaction records he said  
2 he couldn't comment on that.

3 At various times he discussed with the undercover  
4 martyrdom operations. He was not concerned with doing such  
5 an operation, but he wanted to make sure that his intentions  
6 were pure enough if he was going to go forward with this.  
7 And Mr. Williams' logic -- and he took the time to explain  
8 this to the FBI -- was if you kill yourself in one of these  
9 type operations and your intentions are not pure, then it's  
10 just suicide. But if your intentions are pure, then you are  
11 doing it for the cause. And what happened in December of  
12 this year, beginning in the end of November, is Mr. Williams  
13 told the undercover he had a plan to increase his purity;  
14 that he was going to marry, via the Internet, a Muslim woman  
15 in Brazil, and that if this marriage went through he would be  
16 pure enough to go forth and carry on with his plan. And he  
17 said, "If the marriage goes through I shall go forth, with or  
18 without. I shall get my tools, and the next time I will see  
19 my bride is in Jana," which is Heaven. So that's what he's  
20 saying to the undercover, he would not see his bride again  
21 until the after life, which precipitated the probable cause  
22 arrest that went forward soon after that.

23 Finally, Your Honor, when he was arrested in his  
24 house was an AK47 that had one bullet in the chamber, 16  
25 rounds in the mag, a nine-millimeter gun with one round in

1 the chamber and, I think it was, seven or eight rounds in the  
2 magazine. And he made a comment along the lines of, "You are  
3 lucky you arrested me outside my house." So the FBI asked,  
4 "Well, what would have happened if we came into your house?"  
5 And he said, "Well, if you came into my house I would  
6 have," in effect, "had a gun battle with you." And so he was  
7 asked, well, what was going to happen to your grandmother --  
8 who, again, Mr. Kimball has pointed out she's here today --  
9 and Mr. Williams said, "She knows when to die."

10 Your Honor, as part of the FBI's due diligence they  
11 interviewed the uncle and the grandmother, and we don't  
12 believe they knew anything about what was going on here.  
13 What the uncle said was the week before Mr. Williams was  
14 walking around at night carrying his gun in his hand and  
15 acting very erratically, and he said that he almost called  
16 the police based on this erratic behavior. What the  
17 grandmother said was recently he's become extremely  
18 disconnected from his friends and that he is always on his  
19 computer and his phone.

20 So that would be the strength of the evidence and  
21 the characteristics, and then I just have argument, Your  
22 Honor.

23 THE COURT: All right. Thank you, Mr. DePadilla.

24 All right, Mr. Kimball, I'll hear any rebuttal to  
25 that, and I'll hear your argument as well.

1           MR. KIMBALL: Your Honor, I would again rely on what  
2 is set forth in the Pretrial Services report and just  
3 basically argue, Your Honor, ultimately with the  
4 recommendation that has been put forth by the Probation  
5 Office of this Court, and that is that my client should be  
6 released on bond while this case is pending.

7           I've had some preliminary discussions with counsel  
8 for the government, and my understanding, Your Honor, is this  
9 is going to be a CIPA case, so it's not as though we're  
10 looking at the typical or general pretrial detention of about  
11 70 days. I suspect that the trial, Your Honor, will be -- I  
12 don't know exactly, but certainly it will be a lot longer  
13 out, farther out, than 70 days from today or next week. So I  
14 think that's something that the Court can also keep in the  
15 back of its mind when weighing the various factors that the  
16 Court has to in deciding whether or not Mr. Williams should  
17 be granted bond.

18           He has very strong family support, Your Honor. His  
19 uncle, his grandmother, his cousin is here from Northern  
20 Virginia, he has a number of family friends that have known  
21 him for a very long time, and he also has support from the  
22 local Muslim community.

23           A sentence, Your Honor, if convicted, in this  
24 particular case is not the sort of sentence that I would  
25 suggest to the Court necessarily provides an incentive to

1 flee. We do not have a mandatory minimum in this case; the  
2 statutory maximum is 20 years, if convicted. And there have  
3 been a number of cases across this country where individuals  
4 convicted of the very charge that Mr. Williams is facing --  
5 and that is attempt to provide material support to a  
6 designated foreign terrorist organization -- the range of  
7 sentences on these cases, Your Honor, is pretty wide. There  
8 have been cases where the defendants have received as low as  
9 probation, and certainly will have been sentences that have  
10 been closer to the statutory max, but there's also been a  
11 number of cases that sort of hover around that ten-year mark,  
12 if you will.

13 So I would suggest to the Court that the sentence,  
14 if convicted, is not something that would automatically cause  
15 this young man to flee. Especially, Your Honor, I would  
16 point out that the alleged material support that he provided  
17 was allegedly a total of \$250. Now, in the grand scheme of  
18 things, I don't know, really, how much support that would  
19 actually be providing. And certainly, while that may be  
20 important -- obviously, it's an element of the charged crime,  
21 but as far as if convicted of that charge, I think the  
22 degree, or the amount, or the extent of the material support  
23 is certainly something that the sentencing judge will take  
24 into consideration, if he's, in fact, found guilty and faces  
25 sentencing for this offense.

1           He's a man, Your Honor, of 26 years of age. He has  
2           resided in this area -- specifically, the rural part of  
3           Suffolk -- for all of his life. He has lived with his  
4           grandmother for his whole life. His mother is deceased. His  
5           father is up in the D.C. area, but there's no real  
6           relationship there, Your Honor. He graduated from high  
7           school. He has attained a degree from a culinary arts  
8           school. And while he was not employed at the time of his  
9           arrest just a few weeks ago, he was most recently employed,  
10          as the Pretrial Services report notes, as a chef or cook at a  
11          country club in Suffolk, and he had that job until October of  
12          this year. So he has demonstrated, Your Honor, that he can  
13          hold a job.

14          In addition, Your Honor, he has, really, no criminal  
15          record to speak of. He certainly has no criminal  
16          convictions. He has a traffic conviction for improper  
17          driving. So it's not as though he has any sort of history,  
18          Your Honor, that the Court would automatically assume that he  
19          would not be able to abide by any conditions that this Court  
20          could set.

21          Now, Mr. DePadilla, you know, proffered a good bit  
22          of the evidence, alleged evidence, that they have, and  
23          certainly there was a criminal complaint with an affidavit  
24          that was rather detailed that perhaps the Court has seen, but  
25          what you don't have is any alleged connections to actual

1 members of ISIS, Your Honor, or any connections in the Middle  
2 East at all.

3 I would disagree with Mr. DePadilla. I don't think  
4 the weight of the evidence is that strong, Your Honor.  
5 Basically, what we have here is a young man who was engaging  
6 in not just legal activity, Your Honor, or lawful activity  
7 but actually constitutionally protected activity. And he was  
8 engaged in those constitutionally protected actions up until  
9 the time that the FBI got involved. He's an actively  
10 practicing Muslim, and we know that that's protected by the  
11 First Amendment.

12 He had an AK47, but guess what? He's not a  
13 convicted felon, and he purchased it lawfully. He wasn't  
14 trying to hide that. So then we have the Second Amendment.

15 And then apparently he was allegedly making a lot of  
16 posts on Facebook and engaging in a lot of political speech,  
17 religious rhetoric, but, again, that goes right back to the  
18 First Amendment. And even if that speech is unpopular,  
19 perhaps disturbing to some, it is still constitutionally  
20 protected speech.

21 I would submit to the Court, Your Honor, that there  
22 is a strong likelihood here that Mr. Williams was entrapped,  
23 and the Court knows that at this stage he is presumed  
24 innocent.

25 We have, obviously, the Pretrial Services report, we

1 have what has been proffered to the Court today, and the  
2 Court is guided by the Bail Reform Act. And I'm not  
3 suggesting to the Court that you would not abide by that, but  
4 the Bail Reform Act sets the bar rather high, and that's  
5 because our system values freedom. And before that freedom  
6 can be taken away, even at a pretrial stage, the Court knows  
7 the government has to present a compelling case that there  
8 are no conditions that could ensure that Mr. Williams would  
9 come back to court or that he's not a threat to anybody.

10 He is presumed innocent, Your Honor. And I know  
11 that the charge here is serious. It certainly sounds  
12 scary -- excuse me, Your Honor -- sounds scary. And,  
13 naturally, perhaps in this time more than ever there may be  
14 an implicit bias and fear that might naturally exist around  
15 this sort of a case, but that's another reason why the Court  
16 has to follow the Bail Reform Act, and when the Court does  
17 that, those standards clearly call for Mr. Williams' release.

18 There's a lot of noise here, but when you get right  
19 down to it all we really have is an alleged contribution of  
20 \$250, and I would suggest to the Court that entrapment is  
21 flowing throughout this case once the FBI got involved.  
22 There's no indication, there's no information known to us  
23 that's been presented to the Court that Mr. Williams was  
24 doing anything before the FBI got involved other than  
25 enjoying those constitutional protections that every citizen



1 in this country has.

2 The Probation Office, Judge, I would submit,  
3 courageously has recommended release, and we would second  
4 that and ask the Court to release our client with, perhaps,  
5 the conditions that Mr. Armitage has suggested, but the Court  
6 can certainly impose more if the Court has some pause. And  
7 that's why I suggested my client's uncle as a potential  
8 third-party custodian.

9 And I know that the FBI interviewed my client's  
10 uncle and my client's grandmother, and perhaps there was some  
11 alleged erratic behavior on my client's part, but, you know,  
12 was that created by the FBI? I mean, I don't know, Your  
13 Honor. It's something to think about. But I think the key  
14 point is here before they got involved was he any sort of  
15 damage or a threat to anybody, and I would submit that he was  
16 not, Your Honor, and I would submit that he should be  
17 released.

18 THE COURT: All right. Mr. Kimball, what should the  
19 Court make of the proffer that the government made that your  
20 client was engaged in discussions discussing potential  
21 martyrdom? That's a disturbing allegation, isn't it?

22 MR. KIMBALL: Well, it could be disturbing, Judge,  
23 but just talking about something, that doesn't necessarily --  
24 I mean, there's no information presented that there was an  
25 actual plan in place. Even in the affidavit in support of

1 the criminal complaint, that part of the pie was certainly  
2 missing. There was talk of it, but there was no real plan.  
3 So I would submit to the Court that it was simple talk on his  
4 part, bravado, if you will. I wouldn't think it would be  
5 serious, Your Honor.

6 THE COURT: All right. Thank you, Mr. Kimball.  
7 Mr. DePadilla, let's hear your argument.

8 MR. DEPADILLA: Thank you, Your Honor.

9 Your Honor, we're not asking you to detain him  
10 because of speech, we're asking you to detain him because we  
11 think he's an active danger to this community. We're also  
12 asking you to detain him because I think for another reason  
13 he is a risk of flight. He has declared that he is with this  
14 organization, ISIS. I think if tomorrow he could get over  
15 there and fight with them he would go and do it, right? Now,  
16 I'm not saying that that's possible, but it certainly gives  
17 him impetus to leave this community and continue to aid them  
18 in any way.

19 But primarily we're relying on danger. He has said  
20 publicly that he's loyal to these people, that he wants this  
21 black flag of Islam to fly over the major cities in this  
22 area.

23 He made his intentions clear. He was told up front,  
24 this money is going for fighting, and that's what it's for.  
25 They sent him a picture of a rocket launcher, and he said,

1 "Praise be to God" and sent a smily face. That's not  
2 entrapment, that's just telling you where your money is  
3 going.

4 More importantly, Your Honor, I think you hit upon  
5 it exactly. The things that spun this case up in November  
6 and December was his own independent plan for martyrdom.  
7 There are no allegations the FBI sent him down this path,  
8 because they didn't do that. This idea was on his own; that  
9 he wanted to reach this point, according to him, where he  
10 could be more pure. He was in contact with a Muslim woman in  
11 Brazil, and he reported back to the undercover that when he  
12 became pure enough through this marriage he was going to go  
13 forth, get his tools, and the next time he would see his  
14 bride would be in Jana, or in Heaven.

15 And, I'm sorry, I left this out, but of course the  
16 undercover asked him at that point is it going to be local,  
17 and he said, "The only way." So now you have the FBI not  
18 only looking at this generalized threat of terrorism, it's  
19 now been particularized to Suffolk and Hampton Roads by this  
20 defendant.

21 Mr. Kimball is absolutely right, he was legally  
22 allowed to buy that AK47. He bought it the day after the San  
23 Bernardino shootings. Coincidence? Possibly, but when  
24 someone is radicalizing over the Internet and a major  
25 terrorism event happens in this country and his next decision

1 is to buy an AK47, it is going to escalate the situation that  
2 much further. Because what this man has said, not only in  
3 his postings but Mirandized to the FBI, is that he believes  
4 in fighting against hard targets, police, government  
5 institutions, things like that, and the way you perpetuate an  
6 attack against them is with an AK47. That's the fastest way  
7 to go about wreaking havoc, and that's what happened out in  
8 San Bernardino.

9 But you've got even more disturbing -- not from a  
10 terrorist standpoint, but just how the Court would evaluate  
11 any case, right? Because the Court regularly evaluates cases  
12 where police or federal agents are making arrests. This man  
13 said, "You're lucky you didn't come into my house. I would  
14 have started shooting at you guys." Not many people say  
15 that. Not many people -- Mr. Kimball used the word  
16 "courageous" -- will admit that, "If you guys came into my  
17 house as the FBI I was going to gun you down." But also that  
18 kind of shows his callousness because, you know, the FBI  
19 asked, "What was going to happen to your grandma," and he  
20 said, "Oh, she knows when to die." Your Honor, the FBI tells  
21 me she's approximately 80 years old.

22 A gun fight with AK47s and FBI agents can do untold  
23 havoc to the people out in that location, and that's why the  
24 FBI did the safe thing and arrested him on the side of the  
25 road.

1           We believe the defense has not overcome the  
2     presumption, and we also believe the Court can find there is  
3     no conditions that will ensure that he will not be a danger  
4     to this community and, to a lesser extent, would not flee and  
5     go join ISIS at the drop of a hat.

6           Thank you, Your Honor.

7           THE COURT: All right. Thank you, Mr. DePadilla.

8           Mr. Kimball, do you wish to make any rebuttal to the  
9     government's argument.

10          MR. KIMBALL: Your Honor, just with regard to the  
11     AK47.

12           I mean, the evidence is that he purchased that in  
13     December of last year. And, again, he did nothing unlawful  
14     with that AK47. Even well before the FBI got involved, which  
15     I believe was in March or April of 2016, and then even after  
16     they became involved with Mr. Williams, there's no  
17     information that Mr. Williams did anything or even put a plan  
18     together to even use that gun or any other gun, Your Honor.  
19     And there are no firearms in the home, there are no computers  
20     in the home. A cell phone, of course, has been seized. He  
21     has no Internet access, and that would certainly be a  
22     condition if the Court would was concerned and Mr. DePadilla  
23     was concerned about a continued Internet or Facebook presence  
24     or what have you. So...

25          THE COURT: All right. Thank you, Mr. Kimball.

1 All right. Well, as the parties are aware and as  
2 Mr. Kimball has specifically pointed out, this Court is bound  
3 by the parameters of the Bail Reform Act. And under those  
4 parameters the Court looks first at the seriousness of the  
5 charges, and obviously a charge of attempting to provide  
6 material support to a designated foreign terrorist  
7 organization, which carries with it a maximum sentence of 20  
8 years in prison, is a very serious charge. The weight of the  
9 evidence -- this is a common theme. The government doesn't  
10 necessarily show all of its cards. The weight of the  
11 evidence here is significant; it's not necessarily  
12 overwhelming. Regardless of whether the amount of material  
13 support is \$250 or \$250,000, that may go to the seriousness  
14 of the offense, but it doesn't go to the weight of the  
15 evidence. The statute just requires that there be some  
16 material support, and in this case the government has  
17 proffered that they have significant evidence in that regard.

18 With respect to the third factor, which is the  
19 history and characteristics of the defendant, Mr. Williams  
20 obviously has the support of family. He's lived his life  
21 with his grandmother, he's a lifelong residence, he's got an  
22 uncle that lives in close proximity, he has family members  
23 who have appeared in his support in court, and he has friends  
24 as well who appeared in support of him. So he appears to  
25 have a strong family and friends network.

1           While he's not employed now, he has had employment  
2 in the past, and he has had both a high school and an  
3 Associate of Arts education. He doesn't appear to have the  
4 assets to flee, and he has not really any criminal record to  
5 speak of. So those are elements which go in Mr. Williams'  
6 favor.

7           The fourth factor that the Court looks at is the  
8 risk of danger to the community posed by the defendant's  
9 release. It's an interesting argument as to the type of  
10 speech that is protected by the First Amendment and whether  
11 or not the Court should consider that in evaluating whether  
12 that speech could translate into action that poses a danger  
13 to the community. But the government's proffer is that this  
14 is more than speech that the Court has to consider. It's  
15 more than postings on the Internet that say, "I support  
16 ISIS," or, "I wish there was a black flag flying over the  
17 Commonwealth of Virginia." There appears to have been  
18 exchanges with an undercover FBI agent on the subject of  
19 martyrdom, on the subject of killing himself in order to  
20 attack hard targets; police and government facilities.

21           Certainly, someone could conduct such activity even  
22 without an AK47, as we've seen in Berlin and as we've seen in  
23 Nice. Someone who is determined to risk martyrdom in order  
24 to inflict harm on this country poses a risk to the  
25 community; that the Court does not find there are any

1 conditions that could obviate that risk. While it's just  
2 allegations at this point, while the defendant certainly has  
3 not been found guilty of any activity, certainly the proffer  
4 of the government raises the substantial concern that there  
5 is potential harm to the community that would be posed by the  
6 defendant's release.

7 And, based on those factors, I am going to order Mr.  
8 Williams' detention, and I will issue an order to that effect  
9 as well.

10 All right. Mr. DePadilla or Mr. Kimball, is there  
11 anything further for the Court to consider in this case?

12 MR. DEPADILLA: Yes. This matter should be put  
13 over to next Wednesday for normal arraignment. That's  
14 January 11th.

15 THE COURT: All right. Does that work for you,  
16 Mr. Kimball?

17 MR. KIMBALL: It does, Your Honor. That's fine.

18 THE COURT: All right. The arraignment of the  
19 defendant will take place on January 11th at 9:00 here in  
20 Norfolk.

21 MR. KIMBALL: Thank you, Your Honor.

22 THE COURT: All right. If there's nothing further,  
23 the court will stand in recess.

24 (The hearing adjourned at 3:12 p.m.)  
25



CERTIFICATION

I certify that the foregoing is a correct transcript, to the best of my ability, of the court's audio recording of proceedings in the above-entitled matter.

/s

Heidi L. Jeffreys

January 31, 2017

Date

Heidi L. Jeffreys, Official Court Reporter